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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,347	10/23/2001	Paul Antonacci	2000-1550-CIP	6459
30184	7590	03/26/2004	EXAMINER	
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C. 1899 POWERS FERRY ROAD SUITE 310 ATLANTA, GA 30339			DURAND, PAUL R	
		ART UNIT		PAPER NUMBER
		3721		Z

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

08

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/037,347	ANTONACCI, PAUL
	Examiner	Art Unit
	Paul Durand	3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 January 2004 and 15 November 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 3-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 3-48 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 3/7/03 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/15/03 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daller (US 2,14,3844) in view of Wikle (US 2,774,402) and in further view of Ferre (US 5,385,766).

In regard to claims 3,11 and 19, Daller discloses the invention substantially as claimed including manufacturing a sheet that is formed of a printable polymer section 11, fabric sections 12 comprised of cellulose materials, that is capable of being "V" folded along a central axis (see Fig. 4, C1, L16-22, C2, L28 – C3, L7 and C3, L68 – C4, L4). What Daller does not disclose is the use of a "mesh" like fabric that is attached to a film center. However, Wilke teaches that it is old and well known in the art of packaging to provide a sheet that is "V" folded to form a bag, with an open end, that is comprised of a mesh material 12 and 12' with a film portion 11 that can be printed on for the purpose of manufacturing a lightweight ventilated bag (see Figs. 1-4 and C1, L66 – C2, L25). Furthermore, Ferre teaches that it is old and well known in the art of composite manufacturing bag manufacturing to provide a portion of the bag comprised of a thermoplastic mesh material 2, and a plastic label 30, that can be manufactured from the same material as the bag which could encompass a thermoplastic ployolefin, and is welded together for the purpose of manufacturing a mesh bag with a label (see Figs. 2-4, abstract and C456-66). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Daller with the bag specifics of Wikle for the purpose of manufacturing a lightweight ventilated bag.

In regard to claims 4,12 and 20, Daller discloses the invention as claimed including fabric sheets 12 sealed to opposite edges of film 11 (see Fig. 3).

In regard to claims 5 and 13, Wikle teaches that it is old and well known in the art to provide a sheet that is comprised of a fabric section that possesses a width that is at least equal to the width of the other fabric section and the film combined for the purpose of manufacturing a bag with a label section (see Fig.1).

In regard to claims 6,14 and 21, Wikle teaches that it is old and well known in the art to provide a fabric section that possesses a cross woven net like thermoplastic fabric for the purpose of manufacturing a bag with ventilation means (see Fig.1).

In regard to claims 7,15 and 22, Daller discloses the invention substantially as claimed including a polymeric portion that can serve as a label (see Fig. 3 and C1, L16-22).

In regard to claims 8,16 and 23, Wikle teaches that it is old and well known in the art to provide a sealing strip comprised of glue or other sealing means along the overlapping edges for the purpose of efficiently sealing the seams of a bag (see Fig 2, and C2, L19-25).

In regard to claims 9,10,17,18,24 and 25, Wikle teaches that it is old and well known in the art to provide a sealing strip that can extend from a fabric section and perpendicular to a fold axis and use heat and pressure to seal (see Fig.1 and C2, L19-26).

5. Claims 26-30,34-38 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daller in view of Wikle in further view of Daniels (US 2,428,266) and in further view of Ferre (US 5,385,766).

In regard to claims 26,34 and 42, Daller discloses the invention substantially including as claimed including manufacturing a sheet that is formed of a printable polymer section 11, fabric sections 12 comprised of cellulose materials, that is capable of being "V" folded along a central axis (see Fig. 4, C1, L16-22, C2, L28 – C3, L7 and C3, L68 – C4, L4). Furthermore, Wikle teaches that it is old and well known in the art of packaging to provide a sheet that is "V" folded to form a bag, with an open end, that is comprised of a mesh material 12 and 12' with a film portion 11 that can be printed on for the purpose of manufacturing a lightweight ventilated bag (see Figs. 1-4 and C1, L66 – C2, L25). What Daller does not disclose and Wikle does not teach is the bag material being formed from continuous streams of material. However, Daniels teaches that it is old and well known in the art to manufacture composite bags comprised of mesh and fabric, from continuous streams of material from rolls 50 and 52 for the purpose of increasing bag manufacturing efficiency (see Fig. 10). Furthermore, Ferre teaches that it is old and well known in the art of composite manufacturing bag manufacturing to provide a portion of the bag comprised of a thermoplastic mesh material 2, and a plastic label 30, that can be manufactured from the same material as the bag which could encompass a thermoplastic polyolefin, and is welded together for the purpose of manufacturing a mesh bag with a label (see Figs. 2-4, abstract and C456-66). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Daller and Wikle with the manufacturing process as taught by Daniels for the purpose of increasing bag manufacturing efficiency.

In regard to claims 27,35 and 43, Daller discloses the invention as claimed including fabric sheets 12 sealed to opposite edges of film 11 (see Fig. 3).

In regard to claims 28 and 36, Wikle teaches that it is old and well known in the art to provide a sheet that is comprised of a fabric section that possesses a width that is at least equal to the width of the other fabric section and the film combined for the purpose of manufacturing a bag with a label section (see Fig.1).

In regard to claims 29,37 and 44, Wikle teaches that it is old and well known in the art to provide a fabric section that possesses a cross woven net like thermoplastic fabric for the purpose of manufacturing a bag with ventilation means (see Fig.1).

In regard to claims 30,38 and 45, Daller discloses the invention substantially as claimed including a polymeric portion that can serve as a label (see Fig. 3 and C1, L16-22).

6. Claims 31-33,39-41 and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daller in view of Wikle in further view of Daniels in further view of Madderom (US 5,912,197) and in further view of Ferre (US 5,385,766)..

Daller, Wikle and Daniels disclose the invention substantially as claimed except for the use of the transverse sealing strip. However, Madderom teaches that it is old and well known in the art of composite bag manufacturing to provide a transverse strips 14, that are regularly spaced along the web, onto a bag 10, that functions as the transverse seal for two separate bags, as the film web is cut for the purpose of increasing bag sealing manufacturing efficiency (see Figs. 1,4 and C1, L60 – C2, L6). Furthermore, Ferre teaches that it is old and well known in the art of composite

manufacturing bag manufacturing to provide a portion of the bag comprised of a thermoplastic mesh material 2, and a plastic label 30, that can be manufactured from the same material as the bag which could encompass a thermoplastic polyolefin, and is welded together for the purpose of manufacturing a mesh bag with a label (see Figs. 2-4, abstract and C456-66). Still Furthermore, in regard to the limitation of the seal size, the examiner takes Official Notice that it is old and well known in the art to provide a seal that is used to seal two separate bags with a width that is larger than the seals used to seal the edges of a single bag for the purpose of adequately forming an integral seal area. Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Daller, Wikle and Daniels with the sealing manufacturing process as taught by Madderom for the purpose of increasing bag seal manufacturing efficiency.

### ***Response to Arguments***

7. Applicant's arguments, see Page 16, filed 11/15/03, with respect to the rejection(s) of claim(s) 3,11,19,26,34 and 42 under § 103(a) and regarding the choice of material has been fully considered and is persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ferre.

8. Applicant also argues that the reference and teaching of Daller and Wikle are non-analogous art since they both contain material that would require a sealing agent on the material in order to facilitate the sealing of the edges instead of welding as

disclosed in the applicant's invention. Firstly the examiner has provided the teaching of Ferre to show that it is old and well known in the art to provide a thermoplastic mesh and a label that can also be or thermoplastic material and could encompass a polyolefin in that class of plastics. Second, the examiner asserts that the applicant has provided no limitation in the claims that would support the sole use of heat sealing or welding without the use of an adhesive. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, for the reasons indicated above, the rejection is deemed proper.

### **Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
March 17, 2004+



Rinaldi I. Rada  
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